

APPEAL NO. 010773

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on March 22, 2001. The hearing officer determined that the respondent (claimant) had disability from a compensable injury from August 24, 2000, through February 12, 2001. The appellant (carrier) has appealed this determination on sufficiency of the evidence grounds. The claimant submitted a response to the appeal, urging affirmance of the hearing officer's determination.

DECISION

Affirmed.

The claimant sustained an injury to her cervical and lumbar spine on _____, while moving some boxes at work. She was already on light duty at that time, as she was more than six months pregnant. She initially saw Dr. T, who took her off work until she saw the obstetrician. Dr. C from the (hospital) provided a release/restrictions slip returning the claimant to work on August 28, 2000, with restrictions of no lifting over 15 pounds and frequent rest breaks. The claimant next saw Dr. S, a chiropractor, who took her off work completely, starting August 25, 2000. The claimant's position was that her injury was a cause of her disability, while the carrier argued that there was no disability at all, or, if there was disability, it ended when the claimant would have taken off from work both before and after her delivery. The hearing officer determined that the claimant's disability extended from August 24, 2000, the first day that the claimant missed work, up until February 12, 2001, the date when the required medical examination doctor, Dr. T-L, found no objective evidence of an ongoing injury to the claimant's neck or low back.

The 1989 Act provides that the hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). Where there are conflicts in the evidence, the hearing officer resolves the conflicts and determines what facts the evidence has established. As an appeals body, we will not substitute our judgment for that of the hearing officer when the determination is not so against the overwhelming weight of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Texas Workers' Compensation Commission Appeal No. 950456, decided May 9, 1995. There is evidence to support the hearing officer's determination that the claimant was taken off work and remained off work not as a result of the pregnancy, but because of the back injury.

Whether disability exists for any period of time presents a question of fact for the hearing officer to decide and can be proved by the testimony of the claimant alone, if found credible. Texas Workers' Compensation Commission Appeal No. 93560, decided August 19, 1993. We have held that a compensable injury need only be a producing cause of the disability, not the only cause. Texas Workers' Compensation Commission Appeal No. 931117, decided January 21, 1994. In the case before us, there is evidence that the

claimant's compensable injury precluded her from returning to even light duty from August 24, 2000, through February 12, 2001. There is no conflict between a finding of disability and multiple causes for the inability to work. We have previously applied this rule in cases where the claimant was pregnant at the same time as disability existed. See Texas Workers' Compensation Commission Appeal No. 002560, decided December 7, 2000.

For the foregoing reasons, we affirm the decision and order of the hearing officer.

Michael B. McShane
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Gary L. Kilgore
Appeals Judge